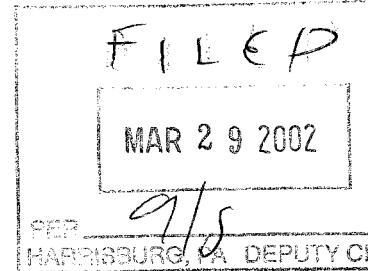


(23)
4-1-02

ORIGINAL



**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DESMOND V. GAYLE
Plaintiff

3:CV-01-1282
(Judge Caldwell)

V.

WARDEN HOGAN AND DEPUTY BOWEN,
Defendants

DEFENDANTS' STATEMENT OF MATERIAL FACTS

Defendants submit the following Statement of Material Facts as required by Middle District Local Rule 56.1.

1.

York County Prison has a comprehensive grievance system that provides inmates with an administrative remedy for complaints about prison conditions. The system provides for:

- a) Monetary damages in a fixed amount.
- b) Alternative dispute resolution.
- c) Changes in procedure.
- d) Disciplinary action.
- e) Any equitable or legal relief deemed appropriate.

See Exhibit appended to the Affidavit of Deputy Warden Roger Thomas.

2.

Monetary damages have been awarded to prisoners mostly for lost items of property. However, on October 18, 2001, the system provided a \$50,000 award to an INS inmate for violation of his constitutional rights when corrections officers used excessive force in removing the inmate from his cell. (These corrections officers were terminated for their conduct and prosecuted criminally). (See Affidavit Donald L. Reihart, Esquire)

3.

The administrative system to review and address inmate complaints was in effect during the entire time inmate Desmond V. Gayle was an inmate at the York County Prison. (Affidavit Thomas)

4.

The administrative system provides for a series of staff reviews, a review outside the prison by the solicitor (Form 806) who can recommend or deny hearing by the Complaint Review Board, and a final appeal to the York County Prison Board. (Affidavit Roger Thomas)

5.

The Inmate Handbook, which is available to all inmates and which was available to inmate Desmond V. Gayle, provides:

"A thorough explanation of how appeals are to be taken and ends with the statement:

A solicitor may refer the matter to the Complaint Review Board. Recommendations of the Complaint Review Board will be made to the York County Prison Board. If you are not

satisfied with the decision of the Complaint Review Board:

The solicitor will review the 806 and prepare a response to the inmate. If the inmate is not satisfied, he may appeal directly to the Prison Board by writing a letter which explains the reason for the appeal to the Chairman, Inspectors of York County Prison, One West Market Way, 4th Floor, York, Pennsylvania 17401.

The grievance system shall not be considered exhausted unless all reviews have been taken timely and denied. (Affidavit Reihart, Exhibit "1")

6.

During his confinement at the York County Prison, inmate Desmond V. Gayle filed grievances thereby establishing his knowledge of the system. However, he failed to file any grievances that form the subject matter of the above-captioned criminal complaint.

7.

Inmate Gayle did not exhaust the remedies available to him concerning the grievances that are set forth in the complaint filed in the above-captioned action.

Respectfully submitted,

By: 

Donald L. Reihart, Esquire
Sup. Ct. I.D. #07421
2600 Eastern Boulevard
Suite 204
York, PA 17402-2904
Telephone (717) 755-2799

Assistant Solicitor for York County

Dated: 3/25/02

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DESMOND V. GAYLE
Plaintiff

: 3:CV-01-1282
: (Judge Caldwell)
:
:
:
:
:
:

V.

WARDEN HOGAN AND DEPUTY BOWEN,
Defendants

CERTIFICATE OF SERVICE

I, Donald L. Reihart, Esquire, certify that a true and correct copy of the foregoing
DEFENDANTS' STATEMENT OF MATERIAL FACTS, was caused to be served on the
date shown below by depositing same in the United States mail, first-class, postage
prepaid thereon, addressed as follows:

Desmond V. Gayle
York County Prison
3400 Concord Road
York, PA 17402

Respectfully submitted,

By: 

Donald L. Reihart, Esquire
Sup. Ct. I.D. #07421
2600 Eastern Boulevard, Suite 204
York, PA 17402-2904
Telephone (717) 755-2799

Assistant Solicitor for York County

Date: 3/25/02